

**PROTOCOL
BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF ANTIGUA AND BARBUDA
TO THE AGREEMENT
CONCERNING MARITIME COUNTER-DRUG OPERATIONS**

The Government of the United States of America and the Government of Antigua and Barbuda, hereinafter "the Parties":

Recalling the Agreement between the Government of the United States of America and the Government of Antigua and Barbuda Concerning Maritime Counter-drug Operations, signed at St. John's, April 19, 1995, as amended by exchange of notes at St. John's, June 3, 1996, hereinafter "the Agreement";

Recalling also the Treaty between the Government of the United States of America and the Government of Antigua and Barbuda on Mutual Legal Assistance in Criminal Matters, signed at St. John's October 31, 1996; and the Extradition Treaty between the Government of the United States of America and the Government of Antigua and Barbuda, signed at St. John's June 3, 1996;

Further recalling the Treaty Establishing the Regional Security System, signed February 15-23, 1996;

Desiring to supplement the Agreement in order further to enhance cooperation in the suppression of illicit traffic by sea and air by facilitating multi-national counter-drug operations and the provision of technical counter-drug assistance;

Considering the continuing firm commitment of both Governments to wage an aggressive campaign against drug trafficking;

Mindful of the general international law with respect to the use of force against civil aircraft in flight as reflected in the International Convention on Civil Aviation, adopted at Chicago, December 7, 1944, and Article 3 bis thereto, adopted at Montreal May 10, 1984;

Have agreed as follows:

ARTICLE I

1. The following paragraph 5 bis shall be added to the Agreement, as follows:

"5 bis. For the purposes of this Agreement, the terms "law enforcement shipriders" and "Antigua and Barbuda shipriders" shall include "service personnel" as defined in Article 3(b) of the Treaty Establishing the Regional Security System and designated by other Member States of the Regional Security System."

2. The following paragraph 5 ter shall be added to the Agreement, as follows:

"5 ter. For the purposes of this Agreement, the term "U.S. vessels" includes ships of other States clearly marked and identifiable as being on government service, as may be agreed upon by the Parties in writing."

3. The following paragraph 8 quater shall be added to the Agreement, as follows:

"8 quater. Each Party, after authorization by appropriate officials, may permit, on the occasions and for the time necessary for the proper performance of the operations required under this Agreement:

- a. the temporary mooring of law enforcement vessels of the other Party at national ports in accordance with international norms for resupplying fuel and provisions, medical assistance, minor repairs, weather and other logistics and related purposes,
- b. entry of additional law enforcement officials of the other Party,
- c. entry of suspect vessels not flying the flag of either Party escorted from waters seaward of either Party's territorial sea by law enforcement officials of the other Party, and
- d. escort of persons (other than nationals of the first Party) from such suspect vessels through and exiting out of the territory of the first Party."

4. The following paragraph 8 quinque shall be added to the Agreement, as follows:

"8 quinque. Each Party, after authorization by appropriate officials, may permit, on the occasions and for the time necessary for the proper performance of the operations required under this Agreement, law enforcement aircraft operated by the other Party to:

- a. land and temporarily remain at international airports in accordance with international norms for the purposes of resupplying fuel and provisions, medical assistance, minor repairs, weather, and other logistics and related purposes,
- b. disembark and embark additional law enforcement officials of the other Party, and
- c. disembark, embark and depart out of the territory of the first Party with persons referred to in subparagraph d of paragraph 8 quater."

5. Paragraph 15 of the Agreement shall be amended to read:

“15. Boardings and searches pursuant to this Agreement shall be carried out by uniformed officials from ships and aircraft of the Parties clearly marked and identified as being on government service, and from such ships of other States as may be agreed upon by the Parties in writing.”
6. The following paragraph 15 bis shall be added to the Agreement, as follows:

“15 bis. While conducting air intercept activities pursuant to this Agreement, the Parties shall not endanger the lives of persons on board and the safety of civil aircraft.”
7. Paragraph 16 of the Agreement shall be amended to read as follows:

“16. All use of force pursuant to this Agreement shall be in strict accordance with applicable laws and policies of the respective Party and shall in all cases be the minimum reasonably necessary under the circumstances, except that neither Party shall use force against civil aircraft in flight. Nothing in this Agreement shall impair the exercise of the inherent right of self-defense by law enforcement or other officials of either Party.”
8. The following paragraph 19 bis shall be added to the Agreement, as follows:

“19 bis. The law enforcement authority of Antigua and Barbuda may request, and the United States Coast Guard may authorize, U.S. Coast Guard law enforcement officials to provide technical assistance to law enforcement officials of Antigua and Barbuda in their boarding and investigation of suspect vessels located in the territory or waters of Antigua and Barbuda.”

ARTICLE II

This Protocol shall enter into force upon signature and shall remain in force concurrent with the Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Protocol.

DONE at Washington on the thirtieth day of September, 2003.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

Thomas H Martin

FOR THE GOVERNMENT OF
ANTIGUA AND BARBUDA:

Henry Daa